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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

MORELOCK ENTERPRISES, INC.,

No. CV04-583-PA

Plaintiff,

v.

WEYERHAEUSER CO.,

Defendant.

**AFFIDAVIT OF GEORGE J. COOPER
IN SUPPORT OF DEFENDANT'S
SUPPLEMENTAL OPPOSITION TO
PLAINTIFF CLASS' MOTIONS *IN*
LIMINE NOS. 4, 5, AND 11**

STATE OF OREGON)
) ss.
 County of Multnomah)

I, George J. Cooper, being first duly sworn, depose and say:

1. I am a member of the firm of Dunn Carney Allen Higgins & Tongue LLP, counsel to Weyerhaeuser Company ("Weyerhaeuser"), in the above-captioned action. I respectfully submit this Affidavit, and the exhibits attached hereto, in support Defendant's Supplemental Brief in Opposition to Plaintiff Class's Motions *In Limine* Nos. 4, 5 and 11.

2. In November and December of 2004, I worked with Class counsel on a variety of pretrial discovery issues, including several stipulated protective orders that were ultimately approved by the Court.

3. During that discovery process, issues were raised regarding the applicability and scope of protective orders entered into in earlier litigation. For example, there were concerns as to whether pertinent information produced in earlier litigation could be produced here due to the language of stipulated protective orders in those earlier cases.

4. In addition, there were general concerns that if prior discovery generated in earlier cases could not be used by the parties in the instant case, it would require the third parties to reproduce documents, and would require the parties to retake a multitude of depositions. I recall discussing these concerns with plaintiff's counsel at that time.

5. The parties at that time stipulated to a Pretrial Stipulation and Order Governing the Use of Discovery Information from Prior Related Cases, as approved by this Court on December 10, 2004, a true and correct copy of which is attached as Exhibit 1. The language in the stipulation was clearly drafted to address the concern about whether the use of such materials was restricted by early agreements and, further, to reflect the intent of the parties that discovery information generated in prior cases, including depositions, could be used in this matter. This was to "facilitate discovery in this action and avoid the burden" which would result if such

depositions had to be retaken. It was clearly the intent of the parties that the prior depositions could be "used by the parties in this case." This language would have been unnecessary but for these concerns.

6. This stipulation was amended to add an additional prior case (*Smith Street Mill, Inc., et al v. Weyerhaeuser Co.*) and approved by this Court on March 28, 2005, a true and correct copy of which is attached as Exhibit 2.

7. Attached as Exhibit 3 is a true and correct copy of excerpts from the transcript of the Pretrial Conference held in this matter on March 10, 2008.

8. Attached as Exhibit 4 is a true and correct copy of an order issued in a pending Northern District of California case: *Hynix Semiconductor Inc. v. Rambus Inc.*, No. 00-20905 (N.D. Cal. Mar. 10, 2008) (Order Denying the Manufacturers' Trial Motion Regarding Prior Testimony Designations).


George J. Cooper

SUBSCRIBED AND SWORN to before me this 17th day of March, 2008.


NOTARY PUBLIC FOR OREGON

